



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 21, 2023
MOAHR Docket No.: 23-000813
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned administrative law judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held via telephone conference line on March 16, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ryan Kennedy, hearings facilitator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On ██████████ 2023, Petitioner applied for FAP benefits and reported ongoing employment income and a household including her spouse and minor child.
2. As of February 2023, Petitioner, Petitioner's spouse, and Petitioner's minor child were each under the age of 60 years, not disabled, and not disabled veterans.
3. As of February 2023, Petitioner received ongoing biweekly gross employment income of \$██████████.
4. On February 1, 2023, MDHHS denied Petitioner's application for FAP benefits due to excess gross income.
5. On February 10, 2023, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

The FAP (formerly known as the Food Stamp program) is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-4. It was not disputed that Petitioner applied for FAP benefits on [REDACTED] 2023. A Notice of Case Action dated February 1, 2023, stated that Petitioner's application was denied due to excess gross income. Exhibit A, pp. 17-20.

To be eligible for FAP benefits, a non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2017) p. 1. An SDV group is one with a senior (a person over the age of 60 years), disabled, or disabled veteran. *Id.*

A traditionally categorically eligible FAP group is one whose members are all Family Independence Program (FIP) and/or State Disability Assistance (SDA) and/or Supplemental Security Income recipients (SSI). BEM 213 (January 2023) p. 1. Non-traditionally categorically eligible groups are categorically eligible based on Domestic Violence Prevention Services (DVPS) but an income and asset test is required. *Id.*, p. 2. Categorical FAP groups with three or more members that exceed the gross and/or 100 percent net income limit, but whose gross income is at or below 200% of the Federal Poverty Level (FPL) and who meet the asset limit and all other FAP eligibility requirements may be eligible for benefits as low as \$1 as determined by the Food Assistance Issuance Tables in RFT 260. *Id.*, p. 4.

Petitioner's application dated [REDACTED] 2023, reported a household including Petitioner, her spouse, and her minor child. Petitioner's testimony acknowledged that none of the three household members were over 60 years of age, disabled, or a disabled veteran. None of the members received FIP, SDA, or SSI. Without SDV members or all recipients receiving FIP, SDA, and/or SSI, Petitioner's group is a non-traditional categorical eligible FAP group subject to an income test. As a three-person FAP group with no SDV members, the group's income must fall below 200% of the FPL to establish eligibility.¹

For FAP benefits, MDHHS generally counts gross employment income.² BEM 501 (July 2022) p. 7. For non-child support income, MDHHS uses past income to project a FAP group's income. BEM 505 (October 2022) p. 5. Stable or fluctuating biweekly

¹ See BEM 212 for determining group size for FAP groups.

² Income for temporary census workers, military combat pay, and work study are examples of wages that are not countable (see BEM 501).

employment income is converted to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8.

MDHHS presented TheWorkNumber documents verifying Petitioner's ongoing employment income. Exhibit A, pp. 6-13. Petitioner received ongoing gross wages of \$[REDACTED] from October 21, 2022 through February 10, 2023. Multiplying Petitioner's average biweekly wages by 2.15 results in a countable gross income of \$[REDACTED] (dropping cents).

The monthly gross income limit for a three-person non-traditional categorically eligible FAP group is \$3,840.³ RFT 250 (October 2022) p. 1. Petitioner's benefit group's countable gross income exceeded the gross income limit. Thus, MDHHS properly denied Petitioner's application for FAP benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application requesting FAP benefits dated February 1, 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



Christian Gardocki
Administrative Law Judge

³ The Notice of Case Action dated November 15, 2021, stated that Petitioner exceeded the gross income limit of \$2,495. Exhibit A, p. 18. A gross income limit of \$2,495 is 130% of the FPL and is applicable when a benefit group is not categorically eligible. Presumably, MDHHS determined Petitioner's FAP eligibility based on 200% of the FPL, and in compliance with policy, determined that the group was not categorically eligible because the group's income exceeded 200% of the FPL.

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail :

DHHS
MDHHS-Macomb-12-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]